

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

ROBERT JOE STRANGE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. CIV-17-478-D
	)	
MARY FALLIN, et al.,	)	
	)	
Defendants.	)	

REPORT AND RECOMMENDATION

On April 24, 2017, Plaintiff, a state prisoner appearing *pro se*, filed this action seeking relief under 42 U.S.C. § 1983 for alleged constitutional violations stemming from his former confinement at a state correctional facility, James Crabtree Correctional Center. On April 25, 2017, the matter was referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B).

With his Complaint, Plaintiff filed a one-page form entitled “Affidavit in Forma Pauperis.” Plaintiff stated on this form that he was “a poor person without funds or property or relatives willing to assist [him] in paying for filing” the action. However, the form does not contain the necessary information or certified statement

of his institutional accounts that are required by federal law for a litigant seeking *in forma pauperis* status. See 28 U.S.C. § 1915. Therefore, on April 27, 2017, the undersigned entered an Order advising Plaintiff that his *in forma pauperis* motion was deficient in that it was not on the proper form and it was missing financial information and the signature of an authorized officer of the correctional facility. Order to Plaintiff to Cure Deficiency (Doc. # 6). Plaintiff was granted leave to cure these deficiencies on or before May 15, 2017. The Court's record in this action reflects that the Court Clerk mailed the court-approved *in forma pauperis* forms to Plaintiff at his last known address.

On May 8, 2017, Plaintiff submitted a second document in which he requested leave to proceed *in forma pauperis*. This document, however, was also insufficient to comply with the requirements of 28 U.S.C. § 1915. Therefore, on May 9, 2017, the undersigned entered a Second Order to Plaintiff to Cure Deficiency (Doc. # 8), again advising Plaintiff that his document was deficient because it was not submitted on the proper form and it did not contain the required financial information and signature of an authorized officer at his correctional facility. Plaintiff was granted leave to cure these deficiencies on or before May 30, 2017.

To this date, Plaintiff has not responded to the Court's Order. He has not complied with the Court's Order by either paying the filing fee or submitting the required form and financial documentation to support his request for leave to

proceed *in forma pauperis*. Nor has he requested an extension of time to comply with the Court's Order. The undersigned finds that Plaintiff's failure to comply with this Court's Order, together with the Court's right and responsibility to manage and control its case load, warrants dismissal of this action without prejudice. See Nasious v. Two Unknown B.I.C.E. Agents, 492 F.3d 1158, 1161 n. 2, 1162 (10<sup>th</sup> Cir. 2007)(noting the court applies Fed. R. Civ. P. 41(b) to allow *sua sponte* dismissal for "failure to . . . comply with the rules of civil procedure or court's orders").

### RECOMMENDATION

Based on the foregoing findings, it is recommended that Plaintiff's cause of action be DISMISSED without prejudice. Plaintiff is advised of the right to file an objection to this Report and Recommendation with the Clerk of this Court by June 26<sup>th</sup>, 2017, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72(b). The failure to timely object to this Report and Recommendation would waive appellate review of the recommended ruling. Moore v. United States, 950 F.2d 656 (10<sup>th</sup> Cir. 1991); cf. Marshall v. Chater, 75 F.3d 1421, 1426 (10<sup>th</sup> Cir. 1996)("Issues raised for the first time in objections to the magistrate judge's recommendation are deemed waived.").

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter, and any pending motion not

specifically addressed herein is denied.

ENTERED this 5<sup>th</sup> day of June, 2017.

  
GARY M. PURCELL  
UNITED STATES MAGISTRATE JUDGE